

AO 243 (Rev. 5/85)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District <div style="text-align: center;">Massachusetts</div>
Name of Movant <div style="text-align: center;">David Talley</div>	Prisoner No. <div style="text-align: center;">24776-038</div>	Case No. <div style="text-align: center;">03-10188-RWZ</div>
Place of Confinement <div style="text-align: center;">Plymouth County Correctional Facility</div>		
<div style="display: flex; justify-content: space-between;"> <span>UNITED STATES OF AMERICA</span> <span>V. DAVID A. TALLEY</span> </div> <div style="text-align: right; margin-top: 5px;">(name under which convicted)</div>		
<b>MOTION</b>		
<p>1. Name and location of court which entered the judgment of conviction under attack _____  <u>U.S. District Court for the District of Massachusetts, at Boston</u></p> <p>2. Date of judgment of conviction <u>March 12, 2004</u></p> <p>3. Length of sentence <u>188 months</u></p> <p>4. Nature of offense involved (all counts) <u>felon in possession firearm (18 U.S.C. 922(g);</u>  <u>possession with intent to distribute cocaine base (21 U.S.C. 841);</u>  <u>enhancement pursuant to 21 U.S.C. 851.</u></p> <p>5. What was your plea? (Check one)            (a) Not guilty <input type="checkbox"/>            (b) Guilty <input checked="" type="checkbox"/>            (c) Nolo contendere <input type="checkbox"/></p> <p>If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:            _____            _____            _____</p> <p>6. If you pleaded not guilty, what kind of trial did you have? (Check one) <span style="float: right;">N/A</span>            (a) Jury <input type="checkbox"/>            (b) Judge only <input type="checkbox"/></p> <p>7. Did you testify at the trial? <span style="float: right;">N/A</span>            Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>8. Did you appeal from the judgment of conviction?            Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>		

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9. If you did appeal, answer the following: N/A

(a) Name of court \_\_\_\_\_

(b) Result \_\_\_\_\_

(c) Date of result \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?  
Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information: N/A

(a) (1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion give the same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

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- This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

- (b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: I was sentenced in violation of the Sixth Amendment as applied  
in Apprendi v. New Jersey, 120 S.Ct. 2348 (2000), Blakely v. Washington,  
124 S.Ct. 2531 (2004) and United States v. Booker, 125 S.Ct. 738 (2005).  
 Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

I was sentenced pursuant to the United States Sentencing Guidelines and  
18 U.S.C. s. 3553(b).

B. Ground two: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

C. Ground three: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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D. Ground four: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

The grounds set forth in 12A were not previously presented. My counsel failed to raise them.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?  
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing J. Martin Richey, Federal Defender Office, 408 Atlantic Ave.  
Boston, MA 02110.

(b) At arraignment and plea same

(c) At trial N/A

(d) At sentencing same

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(e) On appeal N/A

(f) In any post-conviction proceeding N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?  
Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?  
Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?  
Yes ☐ No ☐

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

\_\_\_\_\_  
(date)

\_\_\_\_\_  
Signature of Movant